

Remarks/Arguments

The Office Action has cited the following objections and/or grounds for rejection:

- (1) The application does not contain an abstract of the disclosure.
- (2) Claims 2-4 are rejected under 35USC§112 first paragraph as lacking enablement.
- (3) Claims 1-5 are rejected under 35USC§102(e) as anticipated by Jiao (US Patent 6,812,234).
- (4) Claims 1-5 are rejected as obvious over Jiao (WO 03/093266).
- (5) Claims 1 and 5 are provisionally rejected for obviousness-type double patenting over Claims 3 and 15 of copending Application No. 10/577,587.

Amendments

The following amendments have been made:

- (1) An Abstract of the Disclosure has been added. An abstract was filed with the original PCT application and appears on the front page of WO 2005/044264. The abstract included herein is a shortened version of the abstract that is on the front page of the PCT publication. The abstract contains the first sentence of the abstract on the cover of the PCT publication, elements of the last sentence of the abstract on the PCT publication, and a description of the succinate salt as "crystalline," which is supported in the application at page 18, lines 19-20.
- (2) Claim 1 has been amended by inserting the phrase "isolated as a crystalline solid" to describe the compound. This is supported at page 18, lines 19 and 20, where the succinate salt is described as crystallizing during the concentration step.
- (3) Claim 2 has been amended by changing modulation of chemokine receptor activity to "inhibiting chemokine receptor-2 activity." This is supported on page 1, lines 10-13.
- (4) Claims 3 and 4 have been amended by deleting methods of ameliorating and reducing the risk of the diseases cited in the claims.
- (5) An obvious typographical error was corrected in Claim 5.

Response to the Objections and/or Rejections

(1) An abstract of the disclosure is now part of the application.

(2) With respect to the rejections under 35USC§112, first paragraph, objections to claiming amelioration and modulation rather than inhibition of CCR-2 activity have been addressed in the amendments to Claims 2-4.

Claims 2-4 are enabled by the disclosures in the International Applications cited on page 1, lines 5-15, one of which is WO 03/093266, which is cited by the examiner on page 5 of the Office Action as a 35USC§103(a) reference to show that the compound claimed in the current application as a succinate salt is useful for treating inflammatory and immunoregulatory diseases. The cited references provide adequate disclosure to support the method claims 2-4 of the current application. Citing the earlier application in the current application should be sufficient for enablement.

There is no requirement to have this disclosure in the current application, since WO 03/093,266 was published before the publication of the current application.

(3) With respect to the 35USC§102(e) rejection over Jiao et al (US Patent 6,812,234), the patent does not disclose the specific succinate salt claimed in the current application. It discloses a list of salts that can be made, including succinate, but does not disclose the actual succinate salt, and specifically does not disclose that the succinate salt can be isolated as a crystalline compound, as is claimed in the application. The crystalline succinate salt of this invention is not disclosed in the Jiao patent and does not anticipate the current claims.

(4) With respect to the rejection under 35 USC§103(a), the cited reference Jiao (WO 03/093,266) provides a list of salts that may be suitable, but does not remotely suggest any specific salt that would be crystalline, and certainly does not disclose or suggest that the claimed succinate salt can be isolated as a crystalline salt.

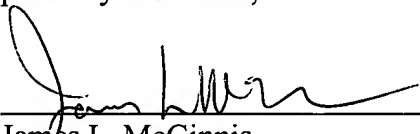
(5) With respect to the rejection under obviousness-type double patenting, the applicants will consider filing a terminal disclaimer once the claims are otherwise in condition for allowance.

Summary

In view of the amendments and arguments above, it is believed that the claims are in condition for allowance, except for the unresolved issue of obviousness-type double patenting, which applicants will consider once the other patentability questions have been resolved.

If the Examiner wishes to discuss any matter relating to this application, the Examiner is invited to telephone the undersigned attorney at the number below.

Respectfully submitted,

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